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7
8 **UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 STEVEN J. MOYER,

13 Defendant.

No. 2:22-cr-0161-RFB-VCF

**Plea Agreement for Defendant Steven J. Moyer
pursuant to Fed. R. Crim. P. 11(c)(1)(A) and
(B)**

14 This plea agreement between Steven J. Moyer (“defendant”) and the United States
15 Attorney’s Office for the District of Nevada (the “USAO”) sets forth the parties’ agreement
16 regarding the criminal charges referenced herein and the applicable sentences and fines in the
17 above-captioned case. This agreement binds only defendant and the USAO and does not bind
18 the district court, the U.S. Probation Office, or any other federal, state, local, or foreign
19 prosecuting, enforcement, administrative, or regulatory authorities. This agreement does not
20 prohibit the USAO or any agency or third party from seeking any other civil or administrative
21 remedies, including administrative forfeiture or civil forfeiture *in rem* actions, directly or
22 indirectly against defendant or defendant’s property.

23 This agreement becomes effective upon signature by defendant, defendant’s counsel, and
24 an Assistant United States Attorney.

I. DEFENDANT'S OBLIGATIONS

1. Defendant agrees to:

- a. Give up the right to indictment by a grand jury and, at the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to a one-count information in the form attached to this agreement as Exhibit A or a substantially similar form, which charges defendant with Conspiracy to Distribute a Controlled Substance in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(E), and 846.
- b. Stipulate to the facts agreed to in this agreement;
- c. Abide by all agreements regarding sentencing contained in this agreement;
- d. Not seek to withdraw defendant's guilty pleas once it is entered;
- e. Not request release or seek to modify the existing pre-trial order of detention;
- f. Appear for all court appearances, surrender as ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter;
- g. Not commit any federal, state, or local crime;
- h. Be truthful at all times with the U.S. Probation and Pretrial Services Offices and the Court.

II. THE USAO'S OBLIGATIONS

2. The USAO agrees to:

- a. Stipulate to facts agreed to in this agreement;
- b. Abide by all agreements regarding sentencing contained in this agreement;
- c. At sentencing, provided that defendant demonstrates an acceptance of responsibility for the offense up to and including the time of sentencing, recommend a two-level

1 reduction in the applicable sentencing guidelines offense level, pursuant to USSG § 3E1.1, and
 2 move for an additional one-level reduction if available under that section.

3 d. Not bring any additional charges against defendant arising out of the
 4 investigation in the District of Nevada which culminated in this agreement and based on
 5 conduct known to the USAO.

6 **III. ELEMENTS OF THE OFFENSE**

7 3. Count One: The elements of Conspiracy to Distribute a Controlled Substance in
 8 violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(E), and 846.

9 (1) From a time unknown, but no earlier than July 2020, and continuing to and
 10 including May 3, 2022, there was an agreement between two or more persons to
 11 commit the crime of distribution of a Schedule III controlled substance (Anabolic
 12 steroids);

13 (2) The defendant joined in the agreement knowing of its purpose and intending to
 14 help accomplish that purpose.

15 Model Crim. Jury Instr. 9th Cir. § 12.5 (2022 ed.)

16 **IV. CONSEQUENCES OF CONVICTION**

17 4. Maximum Statutory Penalties:

18 Defendant understands that the statutory maximum sentence the district court can
 19 impose for a violation of 21U.S.C. §§ 841(a)(1), 841(b)(1)(E), and 846 as charged in Count One,
 20 is: ten years imprisonment; a life-time period of supervised release; a fine of \$500,000; and a
 21 mandatory special assessment of \$100.

22 7. Parole Abolished: Defendant acknowledges that defendant's prison sentence
 23 cannot be shortened by early release on parole because parole has been abolished.

1 8. Supervised Release: Defendant understands that supervised release is a period of
2 time following imprisonment during which defendant will be subject to various restrictions and
3 requirements. Defendant understands that if defendant violates one or more of the conditions of
4 any supervised release imposed, defendant may be returned to prison for all or part of the term of
5 supervised release authorized by statute for the offense that resulted in the term of supervised
6 release, which could result in defendant serving a total term of imprisonment greater than the
7 statutory maximum stated above.

8 9. Factors under 18 U.S.C. § 3553: Defendant understands that the district court
9 must consider the factors set forth in 18 U.S.C. § 3553(a) in determining defendant's sentence.
10 However, the statutory maximum sentence limits the district court's discretion in determining
11 defendant's sentence.

12 10. Potential Collateral Consequences of Conviction: Defendant understands that, by
13 pleading guilty, defendant may be giving up valuable government benefits and valuable civic
14 rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the
15 right to serve on a jury. Defendant understands that once the district court accepts defendant's
16 guilty plea, it will be a federal felony for defendant to possess a firearm or ammunition.
17 Defendant understands that the conviction in this case may also subject defendant to various
18 other collateral consequences, including but not limited to revocation of probation, parole, or
19 supervised release in another case and suspension or revocation of a professional license.
20 Defendant understands that unanticipated collateral consequences will not serve as grounds to
21 withdraw defendant's guilty plea.

22 11. Potential Removal/Deportation Consequences of Conviction: Defendant
23 understands that, if defendant is not a United States citizen, the felony conviction in this case
24 may subject defendant to removal, also known as deportation, which may, under some
circumstances, be mandatory; denial of citizenship; and denial of admission to the United States

1 in the future. The district court cannot advise defendant fully regarding the immigration
2 consequences of the felony conviction in this case, but defendant's attorney has advised him
3 about the deportation risks of his guilty plea. Defendant understands that unexpected
4 immigration consequences will not serve as grounds to withdraw defendant's guilty plea.

5 V. FACTUAL BASIS

6 12. Defendant admits that defendant is, in fact, guilty of the offense to which
7 defendant is agreeing to plead guilty. Defendant acknowledges that if defendant elected to go to
8 trial instead of pleading guilty, the USAO could prove defendant's guilt beyond a reasonable
9 doubt. Defendant further acknowledges that defendant's admissions and declarations of fact set
10 forth below satisfy every element of the charged offense. Defendant waives any potential future
11 claim that the facts defendant admitted below are insufficient to satisfy the elements of the
12 charged offense. Defendant admits and declares under penalty of perjury that the facts set forth
13 below are true and correct: From a time unknown, but no earlier than July of 2020 continuing
14 up to and including May 3, 2022, defendant Steven Moyer conspired and agreed with
15 Christopher Housley to illegally distribute between 10,000 and 20,000 pills containing a mixture
16 and substance containing a detectable amount of anabolic steroids, a Schedule III controlled
17 substance. The defendant joined in the agreement knowing of its purpose and intending to help
18 accomplish that purpose. The above facts occurred in the State and Federal District of Nevada.

19 VI. SENTENCING FACTORS

20
21 13. Discretionary Nature of Sentencing Guidelines: Defendant understands that in
22 determining defendant's sentence, the district court is required to calculate the applicable
23 sentencing guidelines range and to consider that range, possible departures under the sentencing
24 guidelines, and the other sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant

1 understands that the sentencing guidelines are advisory only, that defendant cannot have any
 2 expectation of receiving a sentence within the calculated sentencing guidelines range, and that
 3 after considering the sentencing guidelines and the other § 3553(a) factors, the district court will
 4 be free to exercise its discretion to impose any sentence it finds appropriate up to the maximum
 5 set by statute for the crime of conviction.

6 14. Offense Level Calculations: The parties jointly agree and stipulate that, in
 7 calculating defendant's advisory guidelines sentencing range, the Court should use the following
 8 base offense level and adjustments; acknowledge that these stipulations do not bind the district
 9 court; and agree that they will not seek to apply or advocate for the use of any other base offense
 10 level or any other specific offense characteristics, enhancements, or reductions in calculating the
 11 advisory guidelines range:

12 Base Offense Level USSG § 2D1.1(c)(13): 14

13 Adjusted Offense Level: 14

14 15. If the Court determines that Defendant's case satisfies the safety-valve
 15 criteria in 18 U.S.C. § 3553(f), the government will recommend a two-level downward
 16 variance to Defendant's Sentencing Guidelines range based on the factors set forth in
 17 18 U.S.C. § 3553(a) if Defendant is not otherwise eligible for a two-level reduction
 18 under USSG § 2D1.1(b)(18). By making any such recommendation, the government
 19 does not waive any objection to the Court's determination that the criteria in 18
 20 U.S.C. § 3553(f) have been satisfied. If the government makes a two-level variance
 21 recommendation as described herein, Defendant agrees not seek a further reduced
 22 sentence pursuant to 18 U.S.C. § 3582(c)(2) in the event the United States Sentencing
 23 Commission amends USSG § 5C1.2(a)(1) to match the language of 18 U.S.C. §
 24

1 3553(f)(1). This subparagraph will not bind the parties if United States v. Lopez, 998
2 F.3d 431 (9th Cir. 2021), is amended, overruled, or otherwise abrogated by judicial or
3 legislative action, even if such action occurs between the entry of plea and sentencing
4 in this case.

5 16. Reduction for Acceptance of Responsibility: Under USSG § 3E1.1(a), the USAO
6 will recommend that defendant receive a two-level downward adjustment for acceptance of
7 responsibility unless defendant (a) fails to truthfully admit facts establishing a factual basis for the
8 guilty plea when defendant enters the plea; (b) fails to truthfully admit facts establishing the
9 amount of restitution owed when defendant enters the guilty plea; (c) fails to truthfully admit
10 facts establishing the forfeiture allegations when defendant enters the guilty plea; (d) provides
11 false or misleading information to the USAO, the Court, Pretrial Services, or the Probation
12 Office; (e) denies involvement in the offense or provides conflicting statements regarding
13 defendant's involvement or falsely denies or frivolously contests conduct relevant to the offense;
14 (f) attempts to withdraw defendant's guilty plea; (g) commits or attempts to commit any crime;
15 (h) fails to appear in court; or (i) violates the conditions of pretrial release.

16 Under USSG § 3E1.1(b), if the district court determines that defendant's total offense
17 level before operation of § 3E1.1(a) is 16 or higher, and if the USAO recommends a two-level
18 downward adjustment pursuant to the preceding paragraph, the USAO will move for an
19 additional one-level downward adjustment for acceptance of responsibility before sentencing
20 because defendant communicated defendant's decision to plead guilty in a timely manner that
21 enabled the USAO to avoid preparing for trial and to efficiently allocate its resources.

22 17. Criminal History Category: Defendant acknowledges that the district court may
23 base defendant's sentence in part on defendant's criminal record or criminal history. The district
24 court will determine defendant's criminal history category under the sentencing guidelines.

1 20. Defendant acknowledges that the district court does not have to follow the
2 recommendation of either party.

3 21. Notwithstanding its agreement to recommend a sentence as described above, the
4 USAO reserves its right to defend any lawfully imposed sentence on appeal or in any post-
5 conviction litigation.

6 22. If defendant commits any act that results in the Court finding that defendant is
7 not entitled to a downward adjustment for acceptance of responsibility, the USAO is entitled to
8 argue for any sentence it deems appropriate under 18 U.S.C. § 3553(a). In any such event,
9 Defendant remains bound by the provisions of this agreement and shall not have the right to
10 withdraw defendant's guilty plea.

11 **VIII. WAIVER OF CONSTITUTIONAL RIGHTS**

12 23. Defendant understands that by pleading guilty, defendant gives up the following
13 rights:

- 14 a. The right to persist in a plea of not guilty;
- 15 b. The right to a speedy and public trial by jury;
- 16 c. The right to be represented by counsel—and if necessary, have the court
17 appoint counsel—at trial. Defendant understands, however, that, defendant retains the right to
18 be represented by counsel—and if necessary, have the court appoint counsel—at every other
19 stage of the proceeding;
- 20 d. The right to be presumed innocent and to have the burden of proof placed
21 on the USAO to prove defendant guilty beyond a reasonable doubt;
- 22 e. The right to confront and cross-examine witnesses against defendant;
- 23 f. The right to testify and to present evidence in opposition to the charges,
24 including the right to compel the attendance of witnesses to testify;

1 g. The right not to be compelled to testify, and, if defendant chose not to
2 testify or present evidence, to have that choice not be used against defendant; and

3 h. The right to pursue any affirmative defenses; Fourth Amendment or Fifth
4 Amendment claims; any other pretrial motions that have been or could have been filed; and
5 challenges to any adverse pre-trial rulings.

6 IX. WAIVER OF APPELLATE RIGHTS

7 24. Waiver of Appellate Rights: Defendant knowingly and expressly waives: (a) the
8 right to appeal any sentence imposed within or below the applicable Sentencing Guideline range
9 as determined by the district court; (b) the right to appeal the manner in which the district court
10 determined that sentence on the grounds set forth in 18 U.S.C. § 3742; and (c) any order of
11 restitution or forfeiture.

12 25. Defendant reserves only the right to appeal any portion of the sentence that is an
13 upward departure or variance from the applicable Sentencing Guideline range as determined by
14 the district court.

15 26. Waiver of Post-Conviction Rights: Defendant also knowingly and expressly
16 waives all collateral challenges, including any claims under 28 U.S.C. § 2255, to defendant's
17 conviction, sentence, and the procedure by which the district court adjudicated guilt and
18 imposed sentence, except non-waivable claims of ineffective assistance of counsel.

19 27. Preservation of Evidence: Defendant acknowledges that the USAO and the
20 agencies investigating this case are not obligated or required to preserve any evidence obtained in
21 the investigation of this case.

22 XI. RESULT OF WITHDRAWAL OF GUILTY PLEA 23 OR VACATUR/REVERSAL/SET-ASIDE OF CONVICTION

24 28. Consequence of Withdrawal of Guilty Plea: Defendant agrees that if, after
entering a guilty plea pursuant to this agreement, defendant seeks to withdraw and succeeds in

1 withdrawing defendant's guilty plea on any basis other than a claim and finding that entry into
2 this agreement was involuntary, then the USAO will be relieved of all of its obligations under
3 this agreement.

4 29. Consequence of Vacatur, Reversal, or Set-aside: Defendant agrees that if
5 defendant's conviction is vacated, reversed, or set aside, both the USAO and defendant will be
6 released from all their obligations under this agreement, except that, should the USAO choose to
7 pursue any charge that was either dismissed or not filed as a result of this agreement, then (i) any
8 applicable statute of limitations will be tolled between the date of defendant's signing of this
9 agreement and the filing commencing any such action; and (ii) defendant waives and gives up all
10 defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy
11 trial claim with respect to any such action, except to the extent that such defenses existed as of
12 the date of defendant's signing this agreement.

13 XII. BREACH OF AGREEMENT

14 30. Defendant agrees that if, at any time after this agreement becomes effective,
15 defendant knowingly violates or fails to perform any of defendant's obligations under this
16 agreement ("a breach"), the USAO may declare this agreement breached. All of defendant's
17 obligations are material, a single breach of this agreement is sufficient for the USAO to declare a
18 breach, and defendant shall not be deemed to have cured a breach without the express agreement
19 of the USAO in writing. If the USAO declares this agreement breached, and the district court
20 finds such a breach to have occurred, then: (a) if defendant has previously entered a guilty plea
21 pursuant to this agreement, defendant will remain bound by the provisions of this agreement and
22 will not be able to withdraw the guilty plea; and (b) the USAO will be relieved of all its
23 obligations under this agreement.
24

**XIII. COURT AND UNITED STATES PROBATION
AND PRETRIAL SERVICES OFFICE NOT PARTIES**

31. Defendant understands that the Court and the U.S. Probation and Pretrial Services Office are not parties to this agreement and need not accept any of the USAO's sentencing recommendations or the parties' agreements to facts or sentencing factors.

32. Defendant understands that both defendant and the USAO are free to argue on appeal and collateral review that the district court's sentencing guidelines calculations and the sentence it chooses to impose are not error.

33. Defendant understands that even if the district court ignores any sentencing recommendation, finds facts or reaches conclusions different from those agreed to by the parties, or imposes any sentence up to the maximum established by statute, defendant cannot, for that reason, withdraw defendant's guilty plea, and defendant will remain bound to fulfill all defendant's obligations under this agreement. Defendant understands that no one—not the prosecutor, defendant's attorney, or the Court—can make a binding prediction or promise regarding the sentence defendant will receive, except that it will be within the statutory maximum.

XIV. ADDITIONAL ACKNOWLEDGMENTS

34. Defendant acknowledges that:

a. Defendant read this agreement and defendant understands its terms and conditions.

b. Defendant had adequate time to discuss this case, the evidence, and this agreement with defendant's attorney.

c. Defendant carefully and thoroughly discussed all terms of this agreement with defendant's attorney.

1 d. Defendant understands the terms of this agreement and voluntarily agrees
2 to those terms.

3 e. Defendant has discussed with defendant's attorney the following: the
4 evidence; defendant's rights; possible pretrial motions that might be filed; possible defenses that
5 might be asserted either prior to or at trial; the sentencing factors set forth in 18 U.S.C. § 3553(a);
6 the relevant sentencing guidelines provisions; and consequences of entering into this agreement.

7 f. The representations contained in this agreement are true and correct,
8 including the factual basis for defendant's offense set forth in this agreement.

9 g. Defendant was not under the influence of any alcohol, drug, or medicine
10 that would impair defendant's ability to understand the agreement when defendant considered
11 signing this agreement and when defendant signed it.

12 35. Defendant understands that defendant alone decides whether to plead guilty or go
13 to trial and acknowledges that defendant has decided to enter defendant's guilty plea knowing of
14 the charges brought against defendant, defendant's possible defenses, and the benefits and
15 possible detriments of proceeding to trial.

16 36. Defendant understands that no promises, understandings, or agreements other
17 than those set forth in this agreement have been made or implied by defendant, defendant's
18 attorney, or the USAO, and no additional promises, agreements, or conditions shall have any
19 force or effect unless set forth in writing and signed by all parties or confirmed on the record
20 before the district court.

21 37. Defendant acknowledges that defendant decided to plead guilty voluntarily and
22 that no one threatened, coerced, or forced defendant to enter into this agreement.

23 38. Defendant is satisfied with the representation of defendant's attorney, and
24 defendant is pleading guilty because defendant is guilty of the charges and chooses to take
advantage of the promises set forth in this agreement and for no other reason.

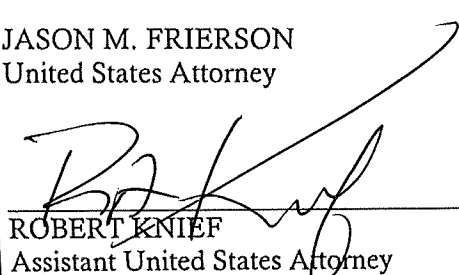
XV. PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

37. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.


AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE DISTRICT OF NEVADA

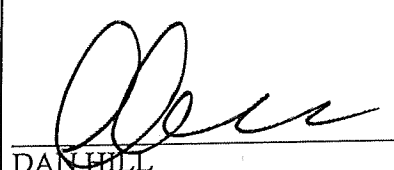
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17 Aug 23
Date


STEVEN J. MOYER
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DAN HILL
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